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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/656,320 | 09/06/2000 | Douglas G. Delany | | 9073 |

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EXAMINER

KARMIS, STEFANOS

ART UNIT PAPER NUMBER

3624

DATE MAILED: 09/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|-------------------------------|-------------------------------|--|
| Office Action Summary | Application No. 09/656,320 | Applicant(s) DELANY ET AL. | |
| | Examiner Stefano Karmis | Art Unit 3624 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 4-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 4-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1. The following communication is in response to Applicant's amendment filed on 13 June 2005.

Status of Claims

2. Claims 1, 4-6, 11 and 15 are currently amended. Claims 2 and 3 are cancelled. Claims 7, 8 and 12-14 are previously presented. Claim 9, 10, 16 and 17 are left as originally filed. Therefore, claims 1 and 4-17 are currently pending.

Response to Arguments

3. Applicant's arguments with respect to claim 1 and 4-17 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 1 and 4-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wright U.S. Publication 2001/0027449 in view of Dialog's DialUnits: A Price Increase in Sheep's Clothing (hereinafter Dialog).

Regarding independent claim 1, Wright discloses a computer-implemented method for billing comprising: assigning a weight score to a webserver function, wherein said score is a property of said function (page 2, paragraphs 0026 and 0028); identifying a user (page 2, paragraph 0025); determining if said function has been accessed by the user (page 2, paragraphs 0025-0026 and page 3, paragraph 0034); identifying a number of uses of the function accessed in response to said determination (page 4, claim 10); calculating an amount of usage by combining the number of uses of the function accessed by the user with the weight assigned to the function (page 4, claim 10); and billing said user for said calculated amount of usage (page 3, paragraph 0033-0035). Wright fails to teach that the weight score is assigned to the function prior to the use of the function. Dialog teaches a computer implemented method for billing for a webserver

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function in which DialUnits are used to represent usage of system resources (page 56, column 2). A user is able to access the price list, which shows the various amounts DialUnits may cost (page 57, column 3 and page 59, Figure 1). Wright and Dialog shift the traditional cost scheme from a time based system to a function based system, wherein Dialog incurs DialUnits for almost every command, including DISPLAY SETS, COST, HELP and BEGIN (page 58, column 2). It would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the teachings of Wright and include having the weight score assigned prior to the function so that users of the webserver function are able to have an understanding of the costs they are about to incur. Further, knowing the cost functions prior to using the function, allows the user to plan resource utilization and consequently refine techniques for use of the functions/resource in an effort to minimize costs, as taught by Dialog with search techniques.

Claim 4 and 5, said step of determining required a webserver function log and a user log file (page 2, paragraphs 0025-0026 and page 3, paragraph 0034),

Regarding independent claim 6, Wright discloses a computer-implemented method for billing a user in a service provider environment comprising: a function weight assigned to a webserver implemented function, , wherein said weight is a property of said function (page 2, paragraphs 0026 and 0028); a user identification (page 2, paragraph 0025); function adapted to be accessed by the user from a file (page 2, paragraphs 0025-0026 and page 3, paragraph 0034); a manager adapted to track a number of uses of the function accessed by the user (page 4, claim 10); and a usage amount calculated by combining the number of uses tracked by said manager

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with the weight assigned to the function (page 4, claim 10). Wright fails to teach that the weight score is assigned to the function prior to the use of the function. Dialog teaches a computer implemented method for billing for a webserver function in which DialUnits are used to represent usage of system resources (page 56, column 2). A user is able to access the price list, which shows the various amounts DialUnits may cost (page 57, column 3 and page 59, Figure 1). Wright and Dialog shift the traditional cost scheme from a time based system to a function based system, wherein Dialog incurs DialUnits for almost every command, including DISPLAY SETS, COST, HELP and BEGIN (page 58, column 2). It would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the teachings of Wright and include having the weight score assigned prior to the function so that users of the webserver function are able to have an understanding of the costs they are about to incur. Further, knowing the cost functions prior to using the function, allows the user to plan resource utilization and consequently refine techniques for use of the functions/resource in an effort to minimize costs, as taught by Dialog with search techniques.

Claim 7, wherein usage amount is determined by multiplying the number of uses of the function by the weight assigned to that function (page 4, claim 10).

Claim 8, a total amount of usage for the user by summing a quantity of said usage amount (page 2, paragraph 0027 and page 4, claim 10).

Claims 9 and 10, the file is a webserver function log and a user log file (page 2, paragraphs 0025-0026 and page 3, paragraph 0034),

Regarding independent claim 11, Wright discloses an article for billing a user in a service provider environment comprising a computer-readable signal bearing medium storing instructions comprising: instructions for assigning a weight to a webserver implemented function, (page 2, paragraphs 0026 and 0028); instructions for determining at least one function that is accessed by the user from a file (page 2, paragraphs 0025-0026 and page 3, paragraph 0034); instructions for identifying the function accessed by the user responsive to said determination instruction (page 4, claim 10); and instructions for calculating a usage amount by combining the number of uses of said function by the weight assigned to that function (page 4, claim 10). Wright fails to teach that the weight score is assigned to the function prior to the use of the function. Dialog teaches a computer implemented method for billing for a webserver function in which DialUnits are used to represent usage of system resources (page 56, column 2). A user is able to access the price list, which shows the various amounts DialUnits may cost (page 57, column 3 and page 59, Figure 1). Wright and Dialog shift the traditional cost scheme from a time based system to a function based system, wherein Dialog incurs DialUnits for almost every command, including DISPLAY SETS, COST, HELP and BEGIN (page 58, column 2). It would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the teachings of Wright and include having the weight score assigned prior to the function so that users of the webserver function are able to have an understanding of the costs they are about to incur. Further, knowing the cost functions prior to using the function, allows

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the user to plan resource utilization and consequently refine techniques for use of the functions/resource in an effort to minimize costs, as taught by Dialog with search techniques.

Claim 12, wherein the instructions for calculating usage amount includes multiplying the number of uses of the function by the weight assigned to the function (page 4, claim 10).

Claim 13, instructions for determining a total amount of usage for the user by summing usage amount (page 2, paragraph 0027 and page 4, claim 10).

Claims 14 and 15, the file is a webserver function log and a user log file (page 2, paragraphs 0025-0026 and page 3, paragraph 0034),

Claim 16, the medium is a recordable data storage medium (page 1, paragraphs 0009-0011 and page 2, paragraph 0030 thru page 3, paragraph 0033 and Figure 1).

Claim 17, the medium is a modulated carrier signal (page 1, paragraphs 0009-0011 and page 2, paragraph 0030 thru page 3, paragraph 0033 and Figure 1).

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stefano Karmis whose telephone number is (571) 272-6744. The examiner can normally be reached on M-F: 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (571) 272-6747. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Respectfully Submitted
Stefano Karmis
29 August 2005

VINCENT MILLIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

